

AR 1050



Art Unit 3727

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Examiner: Pasqua, Jes F  
Applicant: Irving R. Michlin et al  
Serial No: 10/653,792  
Filed: September 3, 2003  
TITLE: Blank and Method for Forming a Novelty Product

Customer No.:27,162

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPEAL BRIEF**

Sir:

This is an appeal from the Final Rejection dated August 25, 2006 of claims 4, 8 to 10, 22 and 23.

A check in the amount of \$250.00 is submitted herewith. Should any additional fees be required, please charge such to Deposit Account 03-0678.

12/22/2006 CNEGA1 00000002 10653792  
01 FC:2402 250.00 0P

## **TABLE OF CONTENTS**

	<b>Page</b>
Real Party in Interest	3
Related Appeals and Interferences	3
Status of Claims	3
Status of Amendments	3
Summary of Claimed Subject Matter	3
Grounds of rejection to be reviewed on Appeal	6
Argument	6
Claims Appendix	
Evidence Appendix	none
Related proceedings Appendix	none

### **REAL PARTY IN INTEREST**

The real party in interest is IMCOM, Inc, a corporation of New Jersey and the assignee of record.

### **RELATED APPEALS AND INTERFERENCES**

There are no related Appeals or Interferences.

### **STATUS OF CLAIMS**

Claims 1 to 3, 6, 7, 11 and 12 have been allowed.

Claims 4, 8 to 10, 22 and 23 have been rejected.

Claim 5 has been objected to as dependent upon a rejected claim but would be allowable if rewritten in independent form.

Claims 13 to 21 and 24 have been withdrawn pursuant to a requirement for restriction.

### **STATUS OF AMENDMENTS**

All amendments have been entered.

### **SUMMARY OF CLAIMED SUBJECT MATTER**

#### **Claim 4**

Claim 4 is directed to a blank as illustrated in Figs. 4 and 5 for making at least one laminated novelty product as illustrated in Figs. 6 and 7.

Claim 4 requires the claimed blank to be comprised of a sheet of paper (10') having a transverse line of weakening (12) to divide the sheet in half to define at least two areas within the sheet. (Page 7, lines 24 to 27).

Claim 4 further requires a first of these areas to have a removable section (44) for receiving imaging thereon and the second of these areas to have a removable

section (45) spaced from the first section (44) for folding over and onto the first area and for receiving imaging related to the imaging on the first section (44). (Page 7, lines 28 30).

Claim 4 further requires a layer of adhesive (47) on each of the removable sections (44, 45) for laminating the sections to each other and a removable liner (48) disposed over the adhesive on each of the sections (44, 45) for removal therefrom to permit folding of the two sections (44, 45) over each other (see Fig. 6) and to allow the adhesive (47) to laminate the first removable section (44) with the second removable section (45). (page 8, lines 4 to 10).

#### **Claim 8**

Claim 8 is directed to a blank as illustrated in Figs. 4 and 5 for making at least one laminated novelty product as illustrated in Figs. 6 and 7.

Claim 8 is similar to claim 4 but does not require a sheet of paper to have a transverse line of weakening to divide the sheet in half and does not require adhesive on both of the claimed removable sections-- only on one of the sections.

#### **Claim 9**

Claim 9 depends from claim 8 and requires the sheet of paper to have a fold line between the two sections that fold over each other.

#### **Claim 10**

Claim 10 depends from claim 8 and requires the blank to be made of photo quality water resistant material.

### **Claim 22**

Claim 22 is directed to a blank as illustrated in Figs. 4 and 5 for making at least one laminated novelty product as illustrated in Figs. 6 and 7.

Claim 22 is similar to claim 4 but does not require a sheet of paper to have a transverse line of weakening to divide the sheet in half and does not require adhesive on both of the claimed removable sections-- only on one of the sections.

Claim 22 requires a sheet of paper (10') for passage through an imaging device and requires a first area on the sheet of paper to receive imaging and to have a removable first section (44) smaller than and within the first area as well as a second area on the sheet of paper to receive imaging related to the imaging on the first area and to have a removable second section (45) smaller than and within the second area for folding over and onto the first area.

Claim 22 further requires an adhesive (47) on at least one of the removable sections (44,45) and a removable liner (48) disposed over the adhesive (47) for removal therefrom to permit folding of the two areas over each other (Fig. 6) to allow the adhesive (47) to laminate the first removable section (44) with the second removable section (45).

### **Claim 23**

Claim 23 depends from claim 22 and requires each of the removable sections to be die cut to form a weakened frame to be removable from the remainder of the sheet of paper.

## **GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

I. Whether Claims 4, 8 to 10, 22 and 23 are anticipated by Konkol (US 5,518,787).

II. Whether Claims 4, 8 to 10, 22 and 23 are anticipated by Popat (US 6,294,237).

## **ARGUMENT**

### **Claim 4 is not anticipated by Konkol**

Konkol is directed to a construction as shown in Fig. 2 for a laminated card that comprises a transparent film 10, pressure sensitive adhesive 16 on one surface of the film 10 and a liner stock 12 with a silicone-based release coating that is adhered to the adhesive 16 on the transparent film 10. (column 3, lines 55 to 61).

As illustrated in Figs. 3 and 4 of Konkol, once indicia have been printed onto a surface 18 of the liner stock 12, a die cut portion 24 of the liner stock 12 is removed from the transparent film 10 by the recipient and replaced printed side down onto the adhesive surface 16 of the transparent film as illustrated in Fig. 5. (column 4, lines 42 to 48). Thereafter, as shown in Figs. 6 and 7, the construction is turned over so that the transparent film 10 is facing upward. A die cut area 22 of the film 10 that extends beyond the die cut area 24 of the liner stock (column 4, lines 1 to 3) and the die cut portion 24 of the liner stock 12 are then peeled away. The card is then folded with the indicia facing outward. (column 4, lines 52 to 57; Fig.9). As shown in Figs. 8 and 9, the edges of the folded over die cut area 22 of the film 10 are adhered together to enclose the folded over die cut area 24 of the liner stock 12.

**Konkol does not have a transverse line of weakening "to divide said sheet in half" as required by claim 4**

Claim 4 requires a sheet of paper having "a first transverse line of weakening to divide said sheet in half to define at least two areas within said sheet".

As shown in Fig. 3 of Konkol, the score or perforation line 20 in the die cut area 24 does not divide the liner stock 12 in half as required by claim 4. Clearly, the score or perforation line 20 does not extend beyond the die cut area 24 and into the remainder of the liner stock 12 as required by claim 4.

For this reason alone, a rejection of claim 4 as being clearly anticipated by Konkol is not warranted under the provisions of 35 USC 102.

**The liner stock 12 of Konkol does not have two spaced apart removable sections**

Claim 4 further requires "a first of said areas ...having a removable first section therein for receiving imaging thereon; a second of said areas on an opposite side of said line ...having a removable second section therein spaced from said first section for folding over and onto said first area and for receiving imaging thereon related to the imaging on said first section;

As shown in Fig. 3 of Konkol, the die cut area 24 of the liner stock 12 has two contiguous sections that are not spaced apart as required by claim 4.

For this additional reason, a rejection of claim 4 as being clearly anticipated by Konkol is not warranted under the provisions of 35 USC 102.

**The die cut area 24 of Konkol  
does not have adhesive**

Claim 4 further requires "a layer of adhesive on each of said sections for laminating said sections to each other".

The die cut area 24 of the liner stock 12 shown in Fig. 3 of Konkol does not have adhesive on the underside. Instead, the transparent film 10 has a pressure sensitive adhesive 16 on its surface. Further, the surface 14 of the liner stock 12 that faces the transparent film 10 and from which the die cut area 24 is taken has a silicone-based release coating that is adhered to the adhesive on the transparent film. (column 3, lines 55 to 61).

Note that Fig. 9 of Konkol shows the folded over die cut area 24 sandwiched between folded over sections of the die cut area 22 of the transparent film. The edges of the die cut area 22 of the transparent film are adhered together by the adhesive 16 (see Fig. 8).

For this additional reason, a rejection of claim 4 as being clearly anticipated by Konkol is not warranted under the provisions of 35 USC 102.

**Konkol does not have a  
removable liner**

Claim 4 further requires "a removable liner disposed over said adhesive on each of said sections for removal therefrom to permit folding of said first section and said second section over each other to allow said adhesive to laminate said first removable section with said second removable section".

The die cut area 24 of the liner stock 12 of Konkol has neither a layer of adhesive nor a removable liner disposed over an adhesive "for removal therefrom to permit

folding of said first section and said second section over each other to allow said adhesive to laminate said first removable section with said second removable section".

As shown in Fig. 3 of Konkol, the adhesive 16 remains on the transparent film 10 at all times.

In addition, the two sections of the die cut area 24 of the liner stock 12 are not laminated together. Furthermore, the adhesive 16 does not laminate the two sections of the die cut area 24 of the liner stock 12 together.

For this additional reason, a rejection of claim 4 as being clearly anticipated by Konkol is not warranted under the provisions of 35 USC 102.

**Claim 4 is not anticipated by Popat**

Popat describes a laminated assembly 10 (see Fig. 3) that includes a card stock sheet 20 on the top, a laminated transparent plastic sheet 50 on the bottom and a layer of pressure sensitive adhesive 48 therebetween. In addition, each of the sheets 20, 50 is die cut in a manner as illustrated in Fig. 3 so that a throwing toy assembly may be peeled out of the assembly 10 as indicated in Figs. 6 and 7. The final product is illustrated in Fig. 10.

**Popat does not have a transverse line of weakening "to divide said sheet in half" as required by claim 4**

Popat is void of any description or teaching of a transverse line of weakening in the card stock sheet 20.

For this reason alone, a rejection of Claim 4 is being anticipated by Popat is not warranted pursuant to the provisions of 35 U.S.C. 102.

**The card stock sheet 20 of Popat does not have two spaced apart removable sections for folding over each other**

The wings 38,40,42,44 of the die cut card stock sheet 20 of Popat are not to be folded over each other (See Fig. 10) and, thus, do not have "a second of said areas having a removable second section therein spaced from said first section for folding over and onto said first area...".

For this additional reason, a rejection of Claim 4 is being anticipated by Popat is not warranted pursuant to the provisions of 35 U.S.C. 102.

**The card stock sheet 20 of Popat does not have a layer of adhesive for laminating sections to each other**

Claim 4 requires "a layer of adhesive on each of said sections for laminating said sections to each other ". The adhesive 48 of Popat laminates the card stock sheet 20 to the plastic sheet 50. The adhesive 48 does not laminate the wings 38,40,42,44 of the die cut card stock sheet 20 to each other.

For this additional reason, a rejection of Claim 4 as being anticipated by Popat is not warranted pursuant to the provisions of 35 U.S.C. 102.

**Popat does not have a removable liner**

Claim 4 requires the blank to have "a removable liner disposed over said adhesive ... for removal therefrom to permit folding of said first section and said second section over each other to allow said adhesive to laminate said first removable section with said second removable section".

The die cut areas of the plastic sheet 50 of Popat are laminated to the die cut areas of the card stock sheet 20 and are not removed therefrom. Thus, Popat does not describe or teach the claimed structure.

For this additional reason, a rejection of Claim 4 as being anticipated by Popat is not warranted pursuant to the provisions of 35 U.S.C. 102.

**Claim 8 is not anticipated by Konkol**

Claim 8 requires a blank to comprise, inter alia,

1. "a sheet of paper having at least two areas within said sheet; a first of said areas having a removable first section...; a second of said areas having a removable second section therein spaced from said first section for folding over and onto said first area..."
2. "an adhesive on at least one of said sections for laminating said sections to each other in back-to-back relation" and
3. "a removable liner disposed over said adhesive on said one section for removal therefrom to permit folding of said first section and said second section over each other to allow said adhesive to laminate said first removable section with said second removable section".

As discussed above, the liner stock 12 of Konkol does not have two spaced apart removable sections; the die cut area 24 of the liner stock 12 of Konkol does not have an adhesive; and Konkol does not have a removable liner. Accordingly, a rejection of claim 8 as being anticipated by Konkol is not warranted pursuant to the provisions of 35 USC 102.

**Claim 8 is not anticipated by Popat**

As set forth above, the card stock sheet 20 of Popat does not have two spaced apart removable sections for folding over each other; the card stock sheet 20 of Popat does not have a layer of adhesive for laminating sections to each other and Popat does

not have a removable liner. Accordingly, a rejection of claim 8 as being anticipated by Popat is not warranted pursuant to the provisions of 35 USC 102.

**Claim 9 is not anticipated by Konkol or Popat**

Claim 9 depends from claim 8 and requires "a fold line disposed transversely between said [removable] sections for folding of said sections onto each other". As noted above, neither Konkol nor Popat has a fold line as claimed. Accordingly, a rejection of claim 9 as being anticipated by Konkol or Popat is not warranted pursuant to the provisions of 35 USC 102.

**Claim 10 is not anticipated by Konkol or Popat**

Claim 10 depends from claim 8 and requires the blank be "made of photo quality water resistant material". Neither Konkol nor Popat describes such a material. Accordingly, a rejection of claim 9 as being anticipated by Konkol or Popat is not warranted pursuant to the provisions of 35 USC 102.

**Claim 22 is not anticipated by Konkol or Popat**

Claim 22 requires a blank to have, inter alia,

1. "an adhesive on at least one of said removable sections for laminating said removable sections to each other" and
2. "a removable liner disposed over said adhesive on said one removable section for removal therefrom to permit folding of said first area and said second area over each other to allow said adhesive to laminate said first removable section with said second removable section".

As discussed above, the die cut area 24 of Konkol does not have adhesive and Konkol does not have a removable liner. In addition, the card stock sheet 20 of Popat does not have a layer of adhesive for laminating sections to each other and Popat does

not have a removable liner. Accordingly, a rejection of claim 22 as being anticipated by Konkol or Popat is not warranted pursuant to the provisions of 35 USC 102.

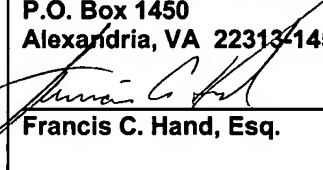
**Claim 23 is not anticipated by Konkol or Popat**

Claim 23 stands or falls with claim 22.

**SUMMARY**

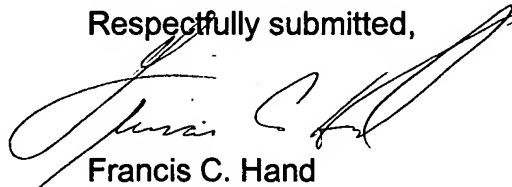
For the reasons set forth above, the Final Rejection of claims 4, 8 to 10, 22 and 23 should be reversed.

The application is believed to be in condition for allowance and such is respectfully requested.

<b><u>FIRST CLASS CERTIFICATE</u></b>	
I hereby certify that this correspondence is being deposited today with the U.S. Postal Service as First Class Mail in an envelope addressed to:	
Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	
 Francis C. Hand, Esq.	<u>12-18-06</u> Date

#305593

Respectfully submitted,

  
Francis C. Hand  
Reg. No. 22,280

CARELLA, BYRNE BAIN, GILFILLAN,  
CECCHI, STEWART & OLSTEIN  
Five Becker Farm Road  
Roseland, NJ 07068  
Phone: 973-994-1700  
Fax: 973-994-1744

APPENDIX

4. A blank for making at least one laminated novelty product, said blank comprising
  - a sheet of paper having a first transverse line of weakening to divide said sheet in half to define at least two areas within said sheet;
  - a first of said areas on one side of said line having a removable first section therein for receiving imaging thereon;
  - a second of said areas on an opposite side of said line from said first area having a removable second section therein spaced from said first section for folding over and onto said first area and for receiving imaging thereon related to the imaging on said first section;
  - a layer of adhesive on each of said sections for laminating said sections to each other; and
  - a removable liner disposed over said adhesive on each of said sections for removal therefrom to permit folding of said first section and said second section over each other to allow said adhesive to laminate said first removable section with said second removable section.
8. A blank for making a novelty product, said blank comprising
  - a sheet of paper having at least two areas within said sheet;
  - a first of said areas having a removable first section therein for receiving imaging on a front surface thereof from an imaging device;
  - a second of said areas having a removable second section therein spaced from said first section for folding over and onto said first area and for receiving

imaging on a front surface thereof from the imaging device related to the imaging on said first section;

an adhesive on at least one of said sections for laminating said sections to each other in back-to-back relation; and

a removable liner disposed over said adhesive on said one section for removal therefrom to permit folding of said first section and said second section over each other to allow said adhesive to laminate said first removable section with said second removable section.

9. A blank as set forth in claim 8 having a fold line disposed transversely between said sections for folding of said sections onto each other.
10. A blank as set forth in claim 8 characterized in being made of photo quality water resistant material.
22. A blank for making at least one laminated novelty product, said blank comprising
  - a sheet of paper for passage through an imaging device;
  - a first area on said sheet to receive imaging thereon and having a removable first section smaller than and within said first area;
  - a second area on said sheet to receive imaging thereon related to the imaging on said first area and having a removable second section smaller than and within said second area for folding over and onto said first area;
  - an adhesive on at least one of said removable sections for laminating said removable sections to each other; and

a removable liner disposed over said adhesive on said one removable section for removal therefrom to permit folding of said first area and said second area over each other to allow said adhesive to laminate said first removable section with said second removable section.

23. A blank as set forth in claim 22 wherein each of said first removable section and said second removable section is die cut to form a weakened frame to be removable from the remainder of said sheet.